

Remarks

This Amendment is in response to the Office Action dated **August 18, 2008**, wherein the Office: rejected claims 1 – 9, 10, and 12 – 23 under 35 U.S.C. § 102, and rejected claim 8 under 35 U.S.C. § 103.

Applicant has amended claim 1. No new matter has been added.

The following comments are presented in the same order and with headings corresponding to those set forth in the Office Action.

Claim Rejections—35 U.S.C. § 102

The Office rejected claims 1 – 9, 10, and 12 – 23 under 35 U.S.C. § 102(e), alleging the same to be anticipated by WO 98/35634 (or U.S. Patent 6,193,747) to von Oepen (hereafter “von Oepen”).

Applicant asserts that the Office Action is not sufficiently clear to allow a response. Under 37 C.F.R. § 1.104(c)(2), “The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” Claim 1 recites

A stent in a non-expanded state, comprising:

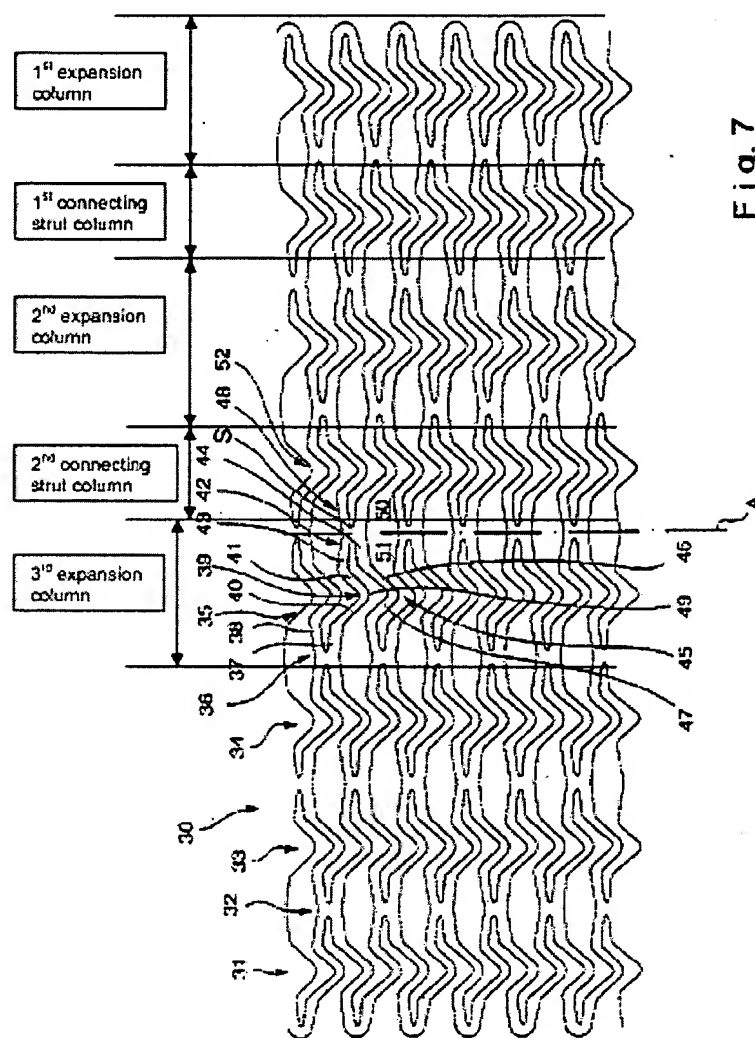
a first expansion column including individual first expansion struts forming a plurality of first expansion strut pairs, at least a portion of each first expansion strut pair having a stair-step region, two adjacent first expansion strut pairs share a common strut;

a second expansion column including individual second expansion struts forming a plurality of second expansion strut pairs, at least a portion of each second expansion strut pair having a stair-step region, two adjacent second expansion strut pairs share a common strut;

a first connecting strut column including a plurality of non-intersecting individual first connecting struts that couple only the first and second expansion columns, wherein each of an individual first connecting strut includes a proximal section and a distal section, at least a portion of the proximal section of each first connecting strut extending from a portion of the stair-step region of one of the first expansion struts, at least a portion of the distal section of each first connecting strut extending from a portion of the stair-step region of one of the second expansion struts, each proximal section having a longitudinal axis and each

distal section having a longitudinal axis, at least one of the longitudinal axis of each proximal section and the longitudinal axis of the distal section being parallel with at least one of a longitudinal axis of each first expansion strut and a longitudinal axis of each second expansion strut.

In rejecting claim 1 under 35 U.S.C. § 102(e), the Office cited simply presented an annotated version of FIG. 7 of von Oepen, as shown immediately below:



In order for a reference to anticipate a claim, the reference must teach or suggest all of the elements of the claim. As seen in claim 1, there are more elements than first and second expansion columns, and first and second connecting strut columns. None of these additional

elements, however, appear to be present in the cited reference.

For example, von Oepen does not teach or suggest a first connecting struts with a proximal and distal sections, “each proximal section having a longitudinal axis and each distal section having a longitudinal axis, at least one of the longitudinal axis of each proximal section and the longitudinal axis of the distal section being parallel with at least one of a longitudinal axis of each first expansion strut and a longitudinal axis of each second expansion strut,” as recited in claim 1. Furthermore, the Office has not specifically indicated which portions of von Oepen it considers to be a stair-step region. Because von Oepen does not teach or suggest all the elements of claim 1, claim 1 is not anticipated. Claims 2 – 9, 10, and 12 – 23 depend from claim 1 and as such are also not anticipated.

As stated in the MPEP in § 706, “The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” The Office Action has not articulated how von Oepen supposedly anticipates all of the elements of the instant claims. For obvious reasons, Applicant is reluctant to speculate which portions of von Oepen the Office could possibly consider to be anticipatory to the elements recited in the instant claims. As such, Applicant requests a subsequent non-Final Office Action that clearly articulates the structure in von Oepen that the Office considers to be equivalent to the elements of the pending claims in order to allow Applicant the opportunity to respond appropriately.

Claim Rejections—35 U.S.C. § 103

The Office rejected claim 8 under 35 U.S.C. § 103(a), alleging the same to be obvious over von Oepen.

The Office asserts that FIG. 8 of von Oepen shows a strain relief notch. However, as asserted above, Applicant requests that a subsequent non-Final Office Action be sent that clearly articulates the structure in von Oepen that the Office considers to be equivalent to the elements of, *inter alia*, claims 1 and 7, from which claim 8 depends, in order to allow Applicant the opportunity to respond appropriately.

Conclusion

In light of the above arguments, Applicant request a subsequent non-Final Office Action that clearly details how the pending claims read on the cited reference.

Should the Examiner have any questions regarding the Amendment, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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